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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Amendment of Part 21 of the)
Commission's Rules for the) CC Docket No. 93-2
Domestic Public Fixed Radio)
Service)

COMMENTS OF
LOCAL AREA TELECOMMUNICATIONS, INC.

Local Area Telecommunications, Inc. ("LOCATE") hereby submits its Comments in the above-referenced proceeding to amend Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Service. 47 C.F.R. Part 21 (1991).^{1/} As discussed herein, LOCATE fully supports the Commission's efforts to amend to Part 21 licensing rules to permit common carrier licensees to respond to the increasing user demand for rapid delivery of service. LOCATE strongly believes, however, that the rule amendments proposed in the Notice will not achieve this goal. Accordingly, LOCATE recommends that the proposed amendments be modified to include rules that permit pre-authorization operation.

I. INTRODUCTION AND BACKGROUND

From the time that LOCATE installed its first common carrier point-to-point microwave system in 1983, it has been one of the Nation's leaders in the provision of digital microwave services. As one of the first service providers to construct and operate

^{1/} Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Service, Notice of Proposed Rulemaking, FCC 93-5 (released February 9, 1993) ("Notice").

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Digital Termination Service ("DTS") systems and one of the pioneers in developing and testing Personal Communications Services ("PCS"),^{2/} LOCATE has extensive experience and knowledge of many radio-based technologies and services licensed by the Commission. Headquartered in New York City, LOCATE provides its digital microwave services to Fortune 500 companies, interexchange carriers and to cellular and paging companies. As a result of this extensive, real-world experience, LOCATE is uniquely qualified to comment on the urgent demands of users of common carrier microwave services and the compelling need of carriers to be able to construct and operate systems as quickly as possible.

In this proceeding, the Commission proposes to amend the Part 21 licensing rules to foster the more rapid and efficient delivery of service to users, without compromising technical interference coordination or other FCC policies, by streamlining and shortening application processing requirements and procedures. Among other things, the Commission proposes to allow providers to commence facility construction upon the filing of an FCC Form 494. While applicants would not be permitted to operate prior to receipt of FCC authorization under the proposed new rules, they would be able to commence construction immediately upon filing an application. Such pre-authorization construction would be permitted only for

^{2/} LOCATE currently holds experimental licenses to conduct PCS trials in Los Angeles, California and San Juan, Puerto Rico. LOCATE's wholly owned subsidiary, Personal Communications Services of New York, Inc. holds an experimental PCS license to conduct experiments in New York City.

routine applications.^{3/} The Commission also proposes to eliminate certain reporting requirements (e.g. the FCC Form 494A construction certification report and the FCC Form 430 licensee qualification report) and streamline and simplify the application requirements requiring licensees to request and obtain prior Commission consent to transfer control of a licensee or assign a license to another party.

The Commission commenced this proceeding in response to a petition for rulemaking filed by McCaw Cellular Communications, Inc. on October 16, 1991.^{4/} In that Petition, McCaw urged the Commission to amend the Part 21 rules to permit common carrier microwave applicants to use the temporary-fixed authorization procedures to permit construction and authorization on a temporary basis prior to obtaining permanent authority upon grant of an application on FCC Form 494. In December 1991, LOCATE filed comments in support of McCaw's Petition For Rulemaking. LOCATE urged the Commission to permit the use of temporary-fixed licensing procedures established in Sections 21.707 and 21.708 of the Commission's Rules for the initial installation of permanent microwave facilities.^{5/}

^{3/} Applicants proposing a mutually exclusive radio license, requiring a waiver, etc. would not be eligible for routine, pre-authorization construction. See Notice at para. 5-6.

^{4/} McCaw Cellular Communications, Inc. Petition for Rulemaking (RM-7861) filed October 16, 1991.

^{5/} See Comments of Local Area Telecommunications, Inc. in RM-7861, 4.

LOCATE strongly supports the Commission's efforts to revise the Part 21 microwave licensing rules to eliminate unnecessary regulatory burdens and costs and to permit carriers to respond more efficiently to growing user demand for rapid delivery of service. For the reasons discussed below, however, LOCATE recommends that the Commission modify its proposal to permit pre-authorization construction and operation based on the Part 21 temporary licensing rules, as previously proposed by McCaw.

II. REDUCED COSTS AND THE ELIMINATION OF UNNECESSARY REGULATORY REQUIREMENTS ARE IN THE PUBLIC INTEREST

LOCATE fully supports the Commission's objectives in this proceeding of reducing costs and eliminating unnecessary regulations. In particular, LOCATE agrees with the Commission that the filing of FCC Form 494A is not necessary.^{6/} As the Commission correctly points out, existing rules provide sufficient recourse in the event an applicant does not construct or operate its facilities in accordance with its authorization.^{7/} Likewise, the incorporation of the licensee qualification information currently reported on FCC Form 430 into the FCC Form 494 will reduce administrative burdens and expenses of both microwave licensees and the Commission staff.^{8/} Finally, the consolidation of FCC Forms 702 and 704 into

^{6/} See Notice at paras. 15-17 (FCC Form 494A filing requirement could be eliminated without undermining FCC requirement that facilities be timely constructed as originally proposed).

^{7/} See Notice at para. 16.

^{8/} See Notice at para 18.

a single new FCC Form 705 will also save valuable time and money of all concerned parties. Together, these proposed amendments, if adopted, will significantly alleviate paperwork and other administrative burdens and their attendant costs on individual licenses and Commission staff. Adoption of these amendments will encourage better use of scarce Commission resources without undermining the Commission's public interest responsibilities concerning the common carrier licensing process.

**III. LICENSEES WILL BE ABLE TO DELIVER SERVICE TO THE
PUBLIC MORE QUICKLY ONLY IF THE RULES PERMIT
CONSTRUCTION AND OPERATION UNDER TEMPORARY LICENSES
PRIOR TO GRANT OF PERMANENT AUTHORIZATIONS**

LOCATE agrees wholeheartedly with the Commission's stated objective of providing service more quickly to the public. However, the rules proposed by the Commission will not accomplish this goal.

As stated above, LOCATE has been involved in the engineering, installation and operation of numerous microwave systems for more than a decade. LOCATE has observed and participated in the rapid changes which have taken place during that time in this industry. Those changes have been largely driven by the evolving needs of users of microwave services. Consistent with LOCATE's experience, the Commission correctly points out that the continuing diversity of the telecommunications industry and the continuing growth in the use of telecommunications services has been the result of public

demand.^{2/} It has been LOCATE's experience that all of its customers -- interexchange carriers, Fortune 500 companies and paging and cellular carriers -- demand service as quickly as possible. These customers typically require rapid initiation of service in order to meet their own urgent need to respond to internal service requirements and strict service and business schedules.

To serve this growing public demand for rapid delivery of service, LOCATE recommends that the Commission modify its proposal. Specifically, the rules should permit pre-authorization operation under temporary licenses. Not allowing the operation of facilities until authorization is granted will severely restrict the ability of LOCATE and other microwave service providers to meet this public need. In fact, the rules proposed by the Commission will not have any impact on the timeframe in which microwave services can be made available to the public. While there may be instances where delays in the commencement of construction can delay the provision of service to the public, LOCATE's experience has been that delays in the application review process due to Commission budgetary constraints and staff shortages have been the primary factors which prohibit the public from receiving service quickly.

As a practical matter, LOCATE's operations and engineering staffs have been able to install microwave systems in a matter of days. During the past decade, the average microwave installation has been completed within 10 to 15 business days. At the same

^{2/} See Notice at para. 3.

time, consistent with McCaw's experience,^{10/} LOCATE has waited for periods as long as 150 days from the initiation of frequency coordination to grant of a license. In its Petition, McCaw stated that it has experienced time delays of up to 135 days.^{11/} In almost every case, the substantial delay in receiving a license grant was a result of delays in administrative processing and not of technical or legal issues raised by the applications; there was no Commission staff inquiry concerning LOCATE's applications, and the authorizations, when finally issued, were unconditional. In numerous instances, LOCATE lost potential business because it could not provide service in a timely manner.

IV. INTEGRITY OF THE FREQUENCY COORDINATION PROCESS WILL NOT BE COMPROMISED BY ALLOWING OPERATION OF FACILITIES PRIOR TO GRANT OF AN AUTHORIZATION

As a competitive microwave common carrier and the licensee of hundreds of point-to-point stations, LOCATE is acutely aware of the importance of frequency coordination. In the New York City metropolitan area, LOCATE alone has more than 100 licensed stations and has carefully coordinated each system to avoid interference with its own systems as well as with the systems of other licensees and applicants. The criticality of frequency coordination is not something that can be glossed over quickly.

At the same time, however, the coordination process must be viewed in its real-world environment. Virtually all potential

^{10/} See Comments of LOCATE (RM-7158), at 4.

^{11/} See McCaw Petition at 11.

interference problems are resolved during the prior coordination notice ("PCN") period. LOCATE's experience over the last 10 years has been that fewer than a dozen potential interference problems were not resolved during the PCN period.

Both the Commission and the Spectrum Managers Association appear to be concerned that verification of the prior coordinated information and the information which subsequently appears on the FCC Form 494 will be compromised by the procedures proposed by McCaw in its Petition.^{12/} Rather than delaying for several months the implementation of service to the public by prohibiting operation until grant of an authorization, the Commission should modify the frequency coordination process so that the front page of the FCC Form 494 (which contains all the technical information for the proposed station) be attached to the PCN distributed to affected parties in the PCN process. If the application which is subsequently filed does not conform to the FCC Form 494 which was attached to the PCN, the applicant would be required to cease operation. Under this approach, microwave carriers and users would be informed early on of the frequencies and other technical information on which pre-authorization operation will occur. The modification of the prior coordination process in this manner will enable the prompt delivery of microwave service to the public without compromising the integrity of frequency coordination.

^{12/} See Notice at para. 14.

V. CONCLUSION

For the foregoing reasons, LOCATE supports the proposed elimination of unnecessary regulations in order to reduce administrative burdens and costs on microwave licensees and Commission staff. LOCATE respectfully requests, however that the Commission adopt the modified proposal described herein to allow the operation of facilities prior to grant of an authorization.

Respectfully submitted,

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